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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,852	08/07/2004	Scott Dresden	BRAN.P007.A	7986
42389	7590	11/30/2007		
DORT PATENT, P.C. Box 26219 Crystal City Station Arlington, VA 22215			EXAMINER AHMED, AFFAF	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 11/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,852	<b>Applicant(s)</b> DRESDEN, SCOTT	
	<b>Examiner</b> Affaf Ahmed	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>10/16/2007</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the application filled on 07/08/2007.
2. Claims 1 -25 are currently pending.
3. Claims 1 and 13-17 have been selected.
4. Claims 2-12 and 18-25 have been withdrawn.
5. Claims 1 and 13-17 are currently pending and have been examined.

### ***Election/Restrictions***

6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - i. Claims 1,13-17, drawn to a method for tracking the effectiveness of an advertising channel for use with a telephonic sales market, classified in class 705, subclass 14.
  - ii. Claims 2-12 are drawn to a method for routing a customer call to a particular vendor. Classified in class 705, subclass 37.
  - iii. Claims 18-23 are drawn to a method for assisting a user in the procurement of a keyword for placing an online advertisement on a search engine. Classified in class 705, subclass 14.
  - iv. Claims 24-25 are drawn to a method for acquiring at least one customer procurement tool accessed over the Internet for a telephonic assisted sale. Classified in class 705, subclass 14.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I, II, III, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as tracking advertisement effectiveness of advertising channel

with a telephonic sales market. Subcombination II has separate utility such as routing a customer call, selecting a vendor based on bidding factor. Subcombination III has separate utility such as procurement of a keyword for placing online advertisement. Subcombination IV has separate utility such as acquiring procurement over the Internet for a telephonic. See MPEP § 806.05(d).

4. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

8. During a telephone conversation with David Dort on 11/08/2007a provisional election was made without traverse to prosecute the invention of application #10710852, claims 1, 13-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 2-12 and 18-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1, 13, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph. There is insufficient antecedent basis for the following limitations:

- Claim 1 recites the limitation of "*advertising a telephonic number for a product or service, said advertisement including an identifier.*"
- Claim 13 recites the limitation of "*wherein said phone number and at least one of said plurality of consumer category codes is provided to said customer via an advertisement.*"
- Claim 14 recites the limitation of "*wherein said source details said advertisement.*"
- Claim 16 recites the limitation of "*wherein said customer call is over the internet.*"

11. Claims 1, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1 recites the limitation of "*procuring said identifier from a caller and placing said identifier into a database.*" It is unclear what applicant is referring to by procuring an identifier from a caller and placing said identifier into a database. Appropriate correction and/or clarification is required.
- Claim 14 recites the limitation of "*wherein said source details said advertisement.*" It is unclear what applicant is referring to by source details. Appropriate correction and/or clarification is required.
- Claim 16 recites the limitation of "*wherein said customer call is over the internet.*" It is unclear what applicant is referring to by customer call over the internet. Appropriate correction and/or clarification is required.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hyodo, US Pat No: 5,937,390.

As per **claim 1**, Hyodo teaches:

- *advertising a telephonic number for a product or service, said advertisement including an identifier (see at least column 3, lines 28-31, column 6, lines 10-13 and fig 3 with associated text);*
- *routing calls to the telephonic number via telephonic routing system to a set of first locations (see at least column 4, lines 20-29), based on a first algorithm generated by a computational system operatively connected and in communication with said telephonic number routing (see at least column 4, lines 55-67);*
- *procuring said identifier from a caller and placing said identifier into a database (see at least column 4, lines 20-29); and*
- *routing said identifier (see at least column 6, lines 10-13) to said computational system and updating a database capable of being accessed by said computational system indicating performance information representative of the effectiveness of said advertisement (see at least column 3, lines 38-61).*

As per **claim 14**, Hyodo teaches:

- *wherein said source details said advertisement (see at least column 4, lines 56-60).*

As per **claim 15**, Hyodo teaches:

- *wherein said advertisement is via the Internet (see at least column 4, lines 3-11).*

As per **claim 17**, Hyodo teaches:

- *wherein said phone number is toll-free (see at least column 4, lines 20-21).*

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyodo, US Pat No: 5, 937,390 in view of Benson, US Pat No: 6,470,079.

**Claim 13:**

Hyodo discloses the limitations as shown above.

Hyodo further discloses:

- *wherein said phone number is provided to said customer via an advertisement (see at least column 4, lines 12-17);*

Hyodo does not disclose, but Benson, however, does disclose:

- *providing at least one of said plurality of consumer category codes (see at least column 3, lines 34-51).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Hyodo's method of online advertising system with Benson's telecommunication system of call traffic to a particular directory numbers with the motivation of providing the advertiser with greater granularity regarding the effectiveness of an advertisement with in specific consumer category code.

16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyodo, US Pat No: 5, 937,390 in view of Gunnar, WO 009826543 A1.

**Claim 16:**

Hyodo discloses the limitations as shown above.

Hydo does not disclose, but Gunnar, however, does disclose:

- *wherein said customer call is over the internet (see abstract).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Hyodo's features of online advertising system with Gunnar's internet telephony system the motivation of providing consumers with a better and a real-time quality of service and thereby providing advertisers with a real-time access to monitor and track the effectiveness of their advertisements.

### **Conclusion**


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Pesaris-Henderson et al, US Pub No: 2003/020866 A1, teaches system and method for pay performand advertising in general media.
  - Walker et al, US Pat No: 6,466,919, teaches a system and method for aggregating multiple buyers utilizing conditional purchase offers.
  - Geiger, US Pat No: 6,434,536, teaches method and systems for commerce.
  - Walker et al, US Pat:6,119,100, teaches method and apparatus for managing the sale of aging products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Affaf Ahmed whose telephone number is 571-270-1835. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached at 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PAH

  
**RETTA YEHDEGA**  
**PRIMARY EXAMINER**